

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

KAHSAY MAMO ABRAHA,
a/k/a "K",)

Defendant.)

CASE NO. CR05-260 RSL

DETENTION ORDER

Offenses charged:

- Count 1: Conspiracy to Distribute Cocaine Base, in violation of Title 21, U.S.C., Sections 841(a)(1), 841(b)(1)(A), and 846;
- Count 2: Conspiracy to Commit Kidnaping and Other Offenses, in violation of Title 18, U.S.C., Section 371;
- Count 3: Kidnaping, in violation of Title 18, U.S.C., Sections 1201(a)(1) and 2;
- Count 4: Interstate Transportation in Furtherance of Prostitution, in violation of Title 18, U.S.C., Sections 2422(a) and 2;
- Count 5: Interstate Travel in Aid of Racketeering, in violation of Title 18,

U.S.C., Sections 1952(a)(2) and 2;

Count 6: Interstate Transportation of a Stolen Vehicle, in violation of Title 18, U.S.C., Sections 2312 and 2; and

Count 8: Possession of Cocaine Base with Intent to Distribute, in violation of Title 21, U.S.C., Section 841(a)(1) and 841(b)(1)(C).

Dates of Detention Hearings: August 24, 2005 and August 26, 2005.

The Court, having conducted contested detention hearings pursuant to Title 18 U.S.C. § 3142(f), and based upon the factual findings and statement of reasons for detention hereafter set forth, finds that no condition or combination of conditions which the defendant can meet will reasonably assure the appearance of the defendant as required and the safety of any other person and the community. The Government was represented by Todd Greenberg. The defendant was represented by Stephan Illa.

The Government urged the court to detain the defendant, emphasizing risk of flight and danger to the community. Supporting the risk of flight, the Government asserts that contradictory information was given regarding the stability of the defendant's residence, specifically that the defendant's claims were contradicted by the defendant's half-sister. The Government stated that the defendant has no stable employment and no known residence or address, adding that he had previously been arrested at his former residence which was a stash or flop house. The Government noted that guns and crack cocaine were seized from that house at the time of the defendant's arrest.

Further supporting the defendant's risk of flight, the Government contended that the defendant is not a U.S. Citizen, as supported by the defendant's sister and a Government agent who confirmed that the defendant would likely be facing a Bureau of Immigration and Customs Enforcement ("BICE") detainer. According to the Government, the risk of flight is heightened by the severity of penalties the defendant faces; the multiple counts carry life imprisonment, combined with the drug counts carrying a 10-year mandatory minimum

1 imprisonment, adding that one victim was seventeen years of age at the time of the
2 kidnaping, which may be considered by the Government at a later time. Finally, the
3 Government maintains that the strength of the evidence is indeed strong and strongly urges
4 the Court to detain the defendant.

5 As a danger to the community, the Government cited the nature of the offense as
6 “troubling” because of the alleged violent kidnaping of the victims, taking them from
7 Everett, Washington to Los Angeles, California where they escaped. The Government
8 contends that photos of the victims corroborate the victims’ description of having been
9 severely beaten. Additionally, one victim was forced to work as a prostitute, which later
10 enabled her escape. Of significant concern to the Government is the fact that both victims
11 are at large in this community and would be at risk of danger should the defendant be
12 released. Finally, the drug trafficking charges precede and post-date the kidnaping tending
13 to corroborate law enforcement’s belief that the defendant has been involved with drug
14 trafficking “for a long time,” as alleged in the Indictment.

15 The defendant’s mental issues and reported drug and alcohol problem further
16 heightens the risk of danger to the community. The Government cites the defendant’s
17 criminal history, which includes 14 arrests in the past 2 years - showing a disregard for the
18 law. Other criminal history includes convictions and arrests, including an arrest in which
19 crack cocaine and a firearm were seized, coupled with 3 occasions where the defendant was
20 arrested with his co-defendant Daniel Ambaw.

21 The defense moves for release of the defendant with conditions, asserting that the
22 Government’s evidence is not really evidence - that it is instead proffer. The defense
23 counters the Government’s assertion of contradictions by offering that the defendant’s
24 employment and residence were actually confirmed by his sister, and that the important
25 facts regarding the defendant’s stability have been confirmed. Additionally, the defense
26 contends that the Government’s allegation of false statements stretches too far; that the

1 important facts are all confirmed.

2 In response to the Government's claim that the defendant has been arrested 14
3 times, the defense adds that these charges were all dismissed, providing that the Government
4 was urging the Court to view the arrests as "lawbreaking" convictions. The defense
5 maintains that the defendant always made his court appearances, and that his two drug
6 convictions are really deferred sentences. The defense submits that the defendant's record
7 of compliance with deferred sentences speaks volumes regarding the risk of flight.

8 The defense continues its argument by alleging that the Government wants to
9 detain the defendant on the basis of what he might do, not what he has done; that no
10 allegation exists that the victims have been or will be threatened. Pointing to purported
11 weaknesses in the case, the defense argues that the Government's case relies on the words
12 of two street-level drug users, referring to the victims, and ambiguous eye-witnesses to the
13 drug charges. Lastly, the defense moves for release of the defendant under the condition
14 that he be placed in a halfway house so that he may maintain employment, ties to the
15 community, and drug rehabilitation while being under supervision. At the second hearing,
16 the defense concedes that, in the event of a BICE detainer being filed, the defendant would
17 not be eligible for release.

18 FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

- 19 (1) There is probable cause to believe the defendant committed the
20 conspiracy drug offense. The maximum penalty is in excess of ten years.
21 There is therefore a rebuttable presumption against the defendant's
22 release based upon both dangerousness and flight risk, under Title 18
23 U.S.C. § 3142(e).
- 24 (2) Nothing in this record satisfactorily rebuts the presumption against
25 release for several reasons: Using the factors below, under Title 18 §
26 3142 (g), the Court considered the following:

- 1 (a) The nature and circumstances of the offense charged, including
2 whether the offense is a crime of violence or involves a narcotic
3 drug.

4 The instant offense alleges - among other charges - the
5 distribution of cocaine base and violent kidnaping, including the
6 documented assault of the two victims.

- 7 (b) The weight of the evidence.

8 The Court finds the weight of the evidence in the instant offense
9 to be significant. A stolen vehicle located in Las Vegas links the
10 victims' statements to the crimes alleged; that the victims were
11 kidnaped in Everett, Washington, transported to Los Angeles,
12 California, beaten, and forced into prostitution where they
13 escaped to the Los Angeles Police Department ("LAPD"). The
14 victims' statements to the LAPD included information that the
15 defendant was traveling to Las Vegas, where he was later found
16 with the stolen vehicle, further corroborating the their statements.

- 17 (c) The history and characteristics of the person, including:
18 The person's character, physical and mental condition, family
19 ties, employment, financial resources, length of residence in the
20 community, community ties, past conduct, history relating to drug
21 or alcohol abuse, criminal history, record concerning appearance
22 at court proceedings, and whether at the time of the current
23 offense or arrest, the person was on probation, on parole, on
24 other release pending trial, sentencing, appeal, or completion of
25 sentence of an offense under Federal, State, or local law.

26 The defendant poses a flight risk as he is not a U.S. citizen and
may face a BICE detainer; he has a history of mental illness and

1 substance abuse issues; he has unstable employment; and he has
2 been a fugitive with no stable residence. Moreover, this Court has
3 communicated with the King County Drug Court in the
4 defendant's pending state case and believes that the defendant,
5 while appearing for court appearances, shows an inability or lack
6 of desire to comply with conditions of release by missing UA's
7 and support group meetings.

8 (d) Risk of danger to the community.

9 The seriousness of the allegations in the instant offense is of
10 particular concern to the Court. The allegations, when combined
11 with the defendant's criminal history, two pending state court
12 matters which are similar in nature to the instant offense, and
13 substance abuse issues, suggest a disregard for the law and
14 inability to comply with conditions of release and deferred
15 sentencing/diversion. Therefore, the Court finds that there is
16 sufficient evidence pointing to the defendant's risk of danger to
17 the community.

- 18 (3) Based upon the foregoing information which is consistent with the
19 recommendation of U.S. Pre-trial Services, it appears that there is no
20 condition or combination of conditions that would reasonably assure
21 future Court appearances and/or the safety of other persons or the
22 community.

23 **It is therefore ORDERED:**

- 24 (1) The defendant shall be detained pending trial and committed to the
25 custody of the Attorney General for confinement in a correction facility
26 separate, to the extent practicable, from persons awaiting or serving

1 sentences or being held in custody pending appeal;

2 (2) The defendant shall be afforded reasonable opportunity for private
3 consultation with counsel;

4 (3) On order of a court of the United States or on request of an attorney for
5 the Government, the person in charge of the corrections facility in which
6 the defendant is confined shall deliver the defendant to a United States
7 Marshal for the purpose of an appearance in connection with a court
8 proceeding; and

9 (4) The clerk shall direct copies of this order to counsel for the United
10 States, to counsel for the defendant, to the United States Marshal, and to
11 the United States Pretrial Services Officer.

12 DATED this 12th day of September, 2005.

13
14 

15 Monica J. Benton
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26